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OFFICE OF PETITIONS

In re Application of	:	
Hiroshi Tamura	:	
Application No. 10/055,861	:	DECISION ON PETITION
Filed: January 23, 2002	:	UNDER 37 C.F.R. §1.181(A)
Attorney Docket Number:	:	
2271/66438	:	
Title: METHOD AND APPARATUS FOR	:	
IMAGE COMMUNICATIONS CAPABLE OF	:	
EFFECTIVELY PERFORMING RECEIPT	:	
ACKNOWLEDGEMENT	:	

This is a decision on the petition filed May 5, 2006, under 37 C.F.R. §1.181(a), to withdraw the holding of abandonment.

Background

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed October 28, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted for transmitting issue or publication fees¹. Accordingly, the above-identified application became abandoned on January 29, 2006. A Notice of Abandonment was mailed on March 31, 2006.

ANALYSIS

With the present petition, Petitioner has alleged that the mailing was not received. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attest to the fact that a search of the file jacket and docket records indicates that the

¹ See MPEP §710.02(e).

Office communication was not received. In addition, a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement².

Petitioner has met the requirements of Delgar v. Schuyler, 172 USPQ 513 (D.D.C. 1971), in that it has been asserted that both the file jacket and the docket record have been searched, and a copy of the latter has been included.

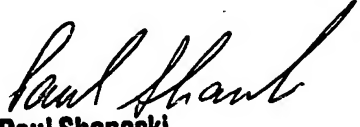
Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that the mailing was not received.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision. The Technology Center's support staff will mail a new Notice of Allowance and Issue Fee Due. The three-month non-extendable time period for submitting the issue and publication fees will be set to run from the mailing date of the Office action.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.


Paul Shanowski
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² See MPEP 711.03(c).